

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14835, of Hee K. Ryu and Yun Hai Fogleman, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Sub-section 330.5) to allow a dry cleaners and self service laundry, and a retail grocery store, first floor, in an R-4 District at premises 442 and 444 N Street, N.W., (Square 513, Lots 852 and 853).

HEARING DATE: July 26, 1988
DECISION DATES: September 7 and October 5, 1988

FINDINGS OF FACT:

1. The property is located on the south side of N Street between 4th and 5th Streets and is known as premises 442-444 N Street, N.W. It is zoned R-4.
2. The site is generally level and is rectangular in shape. The site contains approximately 4,538 square feet of lot area.
3. The site is developed with two two-story row structures. The most recent use of the ground floor of the structures was retail sales of automotive parts pursuant to Certificate of Occupancy No. B-93296, dated May 6, 1975. The second story of the structures contain a total of six apartment units. Two of the apartment units are habitable at the present time. The remainder of the structures is vacant and in a deteriorated condition.
4. The applicant proposes to renovate the existing structures and establish a self-service laundromat with dry cleaning pick-up station and a retail grocery such as Murray's Steaks on the first floor. The second floor will continue to be used for six apartment units.
5. The area surrounding the site is predominantly residential. Dunbar High School is located one block east of the site. There is commercially zoned property one block west of the site. The O Street Market, which contains a major grocery store, is located on 9th Street, within walking distance of the subject site. There are several nonconforming commercial uses in close proximity to the subject site, including a convenience store which is also owned by the applicant, a taxicab company, and a building which has a Certificate of Occupancy for retail sales of

tires and auto parts, but which is currently used for towing and storage of vehicles.

6. The existing buildings predate the adoption of the Zoning Regulations on May 12, 1958. The history of the use of the first floor of the buildings has been commercial. By Order No. 8139-40, dated April 20, 1965, the Board granted a change of nonconforming use from repair of laundry equipment, storage of material and parts, and a power laundry to retail and wholesale sales of plumbing and heating supplies and storage of soda fountain equipment. By Order No. 11719, dated January 21, 1975, the Board granted a change of nonconforming use from the retail and wholesale sales of plumbing and heating supplies to retail sales of automotive parts.

7. The use of the property for retail sales of automotive parts existed at the subject premises from 1975 until approximately 1982. The use of the facility was discontinued due to the death of the owners. The first floor of the property has been vacant since that time.

8. There is no evidence that the first floor of the subject premises has ever been devoted to residential use. There are no division walls or residential plumbing fixtures. The floors are concrete. There are separate entrances to the residential portions of the structures.

9. The applicants purchased the property in 1987. The proposed use of the first floor for a grocery store and a self-service laundry/dry cleaning pick-up station is in response to the request for such facilities by clients of the applicants' existing business at the corner of 5th and N Streets, N.W.

10. The hours of operation of the proposed facilities will not exceed from 6:00 A.M. to 9:00 P.M. The laundry/dry cleaning pick-up facility will have an attendant present at all times that it is in operation. The exterior of the premises will be well lighted. There will be no public telephone on the premises.

11. The applicants have made tentative arrangements with the owner of the vacant lots to the west of the site to lease ten parking spaces to serve the proposed facilities.

12. The Office of Planning (OP), by memorandum dated July 19, 1988, recommended that the application be denied. The OP was of the opinion that the proposed use is not appropriate for this residential area and that the variance, if granted, would impair the intent, purpose and integrity of the R-4 zone. The OP further is of the opinion that the applicants have not met the requisite burden of proof. The Board does not concur with the recommendation of the OP.

13. Advisory Neighborhood Commission (ANC) 2C, by letter dated July 19, 1988, opposed the granting of the application. The ANC was concerned that the proposed facilities would permit commercial encroachment on the residential neighborhood and threaten the already dwindling housing stock in the neighborhood. The ANC was further concerned that the proposed laundry facility had the potential of facilitating drug activity in the area, would increase vehicular traffic and would diminish existing available parking.

14. The record contains numerous letters and a petition in support of the application from nearby residents and community groups. Several persons appeared and testified in support of the application at the public hearing. The support was generally based on the following:

- a. The proposed facilities are needed to serve the residents of the immediate community, many of which are senior citizens who can not easily negotiate several blocks to existing facilities in commercial areas.
- b. The proposed renovation will eliminate an existing eyesore and help upgrade the community.
- c. The applicants' have established a track record in that they operate a business and reside in the immediate area and have proven to be a great asset to the community in terms of improving the appearance of that property, the type of operation which is run, courteous service, and participation in attempting to revitalize the neighborhood.

15. In addressing the issues and concerns of the ANC the Board finds as follows:

- a. The property has a history of commercial uses. The previous uses of the property were more appropriate to industrial zones. The proposed uses would provide convenient services to the existing residential area.
- b. There will be no reduction in the existing housing stock caused by reestablishing retail use in the first floor of the subject premises. The residential units on the second floor will be renovated and retained. There is no evidence that the first floor of the premises has ever been used residentially.
- c. The type of facilities proposed would draw the majority of its clientele from the immediate area

and would not tend to adversely effect existing parking and traffic conditions.

- d. The Board is not persuaded that the proposed facilities would facilitate potential drug activity in the area.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires a showing through substantial evidence of a hardship upon the owner arising out of some peculiar or exceptional condition inherent to the property so that it cannot reasonably be used for the purpose for which it is zoned. The Board must further find that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and map.

The Board concluded that the applicant has provided sufficient proof to establish an undue hardship inherent in the property. The existing buildings predate the 1958 Zoning Regulations. The subject premises have historically been used for commercial purposes. The spatial configuration and structural characteristics of the premises evidence that the premises are not reasonably suitable to conversion to any other use permitted in the R-4 District. The Board has afforded the ANC the "great weight" to which it is entitled.

The Board further concludes that the requested relief can be granted without substantial detriment to the public good and that the variance can be granted without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: Public Hearing of July 26, 1988 - 2-2 (Elliott Carroll and Carrie L. Thornhill to grant; Paula L. Jewell and William F. McIntosh opposed to the motion).

Public Meeting of October 5, 1988 - 3-2 (Carrie L. Thornhill and Charles R. Norris to grant; Elliott Carroll to grant by proxy; William F. McIntosh opposed to the motion; Paula L. Jewell opposed to the motion by proxy).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER:

APR 17 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14835order/LJP47

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14835

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated APR 17 1989, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter and who is listed below:

Hee K. Ryu
1245 5th Street, N.W.
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Clarene Martin, Chairperson
Advisory Neighborhood Commission 2-C
Garrison Elementary School
1200 S Street, N.W., Suite 202
Washington, D. C. 20009

Richard A. Terrell
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Rev. E.R. Gibson
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6th & N Streets, N.W.
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Pete Jones
444 N Street, N.W.
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Clifton Johnson
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RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

Sent to	P. Jones
Street and No	
P.O. State and ZIP Code	
Postage	
Delivery Fee	
Special Delivery Fee	
Registered Mail Fee	
Signature of Addressee	
Signature of Post Office Employee	
Date	
Time	
Post Office	
City	
State	
ZIP Code	
PS Form 3800, June 1985	14835


EDWARD L. CURRY
Executive Director

DATE: APR 17 1989